

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RICHARD GENE REES,

Plaintiff,

vs.

No. CV 21-00079 DHU/JHR

CLOVIS POLICE DEPARTMENT,
CURRY COUNTY DETENTION CENTER,
OFFICER COOK MACKENZIE,
ADMINISTRATOR MARK GALLEGOS,
OFFICER FLASHY, SGT. BRUMWELL,
OFFICER TIPTON, CURRY COUNTY
SHERIFF'S DEPARTMENT,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

This matter is before the Court under Fed. R. Civ. P. 41(b) on the Complaint for Violation of Civil Rights filed by Plaintiff Richard Gene Rees (Doc. 1). The Court will dismiss this case without prejudice for failure to comply with a Court Order, failure to comply with the local rules, and failure to prosecute the case.


Plaintiff Richard Gene Rees filed his Complaint for Violation of Civil Rights on January 28, 2021. (Doc. 1). At the time he commenced this proceeding, Plaintiff Rees was a prisoner incarcerated at the Curry County Adult Detention Center. (Doc. 1 at 2). The record reflects that mailings to Plaintiff Richard Gene Rees sent to his Curry County Adult Detention Center address were returned as undelivered (*see* Doc. 12, 14). Curry County Adult Detention Center records show that Plaintiff Rees was released from custody on July 29, 2021.

It appeared that Plaintiff Rees has been transferred or released from custody without advising the Court of his new address, as required by D.N.M. LR-Civ. 83.6, thus severing contact with the Court. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980) (“It is incumbent

on litigants, even those proceeding pro se, to follow the federal rules of procedure. . . The same is true of simple, nonburdensome local rules . . .” (citation omitted)). Therefore, on March 29, 2022, the Court entered an Order to Show Cause directing Plaintiff Rees to notify the Court of his current mailing address or otherwise show cause why the case should not be dismissed for failure to comply with D.N.M. LR-Civ. 83.6. (Doc. 13). The Order to Show Cause set a 30-day deadline for Plaintiff Rees to respond and notified him that, if he did not show cause within that time, the Court could dismiss this proceeding without further notice. (Doc. 13 at 1).

More than 30 days has passed since entry of the Order to Show Cause. Plaintiff Rees has not provided the Court with a new mailing address, has not responded to the Order to Show Cause, and has not communicated with the Court since July 1, 2021. *See* Doc. 10. The Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the local rules and rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003). Therefore, the Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with the Court’s Order, failure to comply with local rules and failure to prosecute this proceeding.

IT IS ORDERED that the Complaint for Violation of Civil Rights (Doc. 1) filed by Plaintiff Richard Gene Rees is **DISMISSED without prejudice** under Fed. R. Civ. P. 41(b) for failure to comply with the Court’s March 29, 2022 Order, failure to comply with the Local Rules, and failure to prosecute.



UNITED STATES DISTRICT JUDGE